

inderjeet Vs. State

inderjeet Vs. State

SooperKanoon Citation : sooperkanoon.com/1140169

Court : Delhi

Decided On : May-15-2014

Judge : S. P. Garg

Appellant : inderjeet

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI RESERVED ON : April 04, 2014 DECIDED ON : May 15, 2014 + CRL.A. 158/2011 INDERJEET Appellant Through : Mr.Devi Sahai, Advocate. Versus STATE Respondent Through : Mr.M.N.Dudeja, APP. CORAM: MR. JUSTICE S.P.GARG S.P.GARG, J.

1. The appellant-Inderjeet challenges the legality and correctness of a judgment dated 20.01.2011 of learned Addl.Sessions Judge in Sessions Case No.4/08 arising out of FIR No.288/04 registered at Police Station S.P.Badli by which he was held guilty under Section 308 IPC. By an order dated 25.01.2011, he was sentenced to undergo Rigorous Imprisonment for three and a half years.

2. Allegations against the appellant, as reflected in the charge- sheet, were that on 25.05.2004 at about 08.45 pm, at Main Road, Near Mandir, Sector-18, Rohini, Delhi, he inflicted injuries to Rajender Singh by sariya in an attempt to commit culpable homicide. Daily Diary No.27-A (Ex.PW-1/A) was recorded at 09.45 pm at Police Station S.P.Badli on getting information about admission of injured

Rajender Singh at Babu Jagjivan Ram hospital by his wife Balvinder Kaur. The investigation was marked to SI Dhananjay Gupta who with Ct.Narender went to the hospital. The Investigating Officer lodged First Information Report after recording complainant-Rajender Singhs statement (Ex.PW-2/A). The complainant gave detailed account of the incident and implicated Inderjeet for causing multiple injuries to him by saria. Since the First Information was lodged in promptitude, there was no possibility of the complainant to fabricate or manipulate the incident and to falsely name Inderjeet to be the author of the injuries caused to him. MLC (Ex.PW-3/A) records the arrival time of the patient at Babu Jagjivan Ram hospital at 9.30 p.m. Name of his wife Balvinder Kaur appears in the MLC. He was brought to the hospital by Gopal Singh. Various injuries were found on his body. PW-5 (Dr.Sanjay Kumar) proved the MLC (Ex.PW-3/A) by which the patient was examined by Dr.K.L.Sarvangy, Dr.Mahesh Kumar and Dr.Nitin Puri and following injuries were found on the body :(i) Soft tissue injury over left forearm. (ii) Abrasion over mid forearm dorsal aspect. (iii) Abrasion over the both eyes. (iv) Linear horizontal bruise with abrasion present over left hypochondrium. (v) Abdomen tense, tender in left hypochondrium, gauding present in left hypochondrium.

3. The patient was referred to Trauma Centre for ultrasound and further management. The prosecution examined PW-10 (Dr.Deepak Kumar Singh), Chief Medical Officer, Shaushruta Taruma Centre who deposed that the patient was admitted on 26.05.2004 after being referred from BJRM hospital. He remained under treatment in the Trauma Centre and was discharged on 02.06.2004. He proved the medical documents (Ex.PW-10/A) regarding the treatment given to the victim. As per the medical documents, the injured was treated for perforation of intestines and the patient was operated for exploratory lapratomy at 04.00 a.m. on 26.05.2004 itself. He further deposed that the injuries were life threatening and had medical aid not been provided to him, these could have been fatal. Nature of injuries was opined dangerous by Dr.Choden, Sr.Resident, General Surgery. In fact, injuries suffered by the victim are not under challenge. Specific suggestion was put to PW-2 (Rajender) in the cross-examination that during grappling between him and the appellant, he (the victim) fell down and sustained injuries. The witness volunteered to add that he was hit by a saria by the accused. The complainant denied the suggestion that he had abused the appellant before the

appellant attacked him. Defence pleaded by the appellant that the victim sustained injuries due to fall inspires no confidence. No such suggestion was put to the doctors in the cross-examination if the injuries suffered by the victim were possible due to fall.

4. While appearing as PW-2, Rajender proved the version given to the police at the first instance without any variation. He attributed specific motive to the accused to pick-up quarrel with him due to inability of his brother-in-law to return `500/-. When he advised the appellant to demand money from the person to whom he had given, he got enraged and inflicted two saria blows on his abdomen resulting rupture of veins. He remained confined in the hospital for 26 days for treatment. In the cross-examination, no discrepancy could be elicited to disbelieve the version narrated by him. The facts narrated in the examination-in-chief remained unchallenged and uncontroverted. No motive was assigned to the victim for falsely implicating the accused with whom he was well acquainted before the incident and both of them used to work in a garage as mechanics.

5. All the relevant contentions of the appellant have been considered by the Trial Court in the impugned judgment with reasons and no deviation is called for. The findings of the Trial Court are based upon fair appraisal of the evidence. Non-recovery of the crime weapon is not fatal. PW-6 (Smt.Gyan Kaur) and PW-7 (Gopal Singh) have corroborated the version on material aspects.

6. The appellant was convicted under Section 308 IPC. Both the appellant and the victim are known to each other and worked at the same place as mechanics. There is no past history of hostile relations between the two. The quarrel had taken place all of a sudden without any prior planning at the spur of the moment. In a heat of passion, the appellant took out a saria available at his shop and inflicted injuries on the victims abdomen. The victim was suffering from diabetes and was chronic alcoholic. It appears that the said habits/disease aggravated the injuries sustained by the victim. PW-6 (Gian Kuar) revealed that victims kidney was removed subsequently and he expired on 26.08.2009. There is no evidence on record if his death on 26.08.2009 had any nexus with the injuries caused to the victim. The doctor who gave the nature of injuries as dangerous was not

examined. The appellant had not anticipated the arrival of the victim at the spot. Apparently, the injuries caused to the victim were not with the avowed intention/knowledge to cause his death. It was a case of voluntarily causing injuries in the quarrel and the offence proved is under Section 325 IPC. The conviction is accordingly altered from Section 308 IPC to Section 325 IPC.

7. The appellant was sentence to undergo rigorous imprisonment for three and a half years. Sentence order dated 25.01.2011 records that he was the only bread winner of his family, having 7 children, four daughters and three sons, and all of them were unmarried. Nominal roll dated 26.05.2004 reveals that he remained in custody for four months and twenty nine days besides earning remission for one month and fifteen days. He was not involved in any criminal case and was first offender. His overall jail conduct was satisfactory. After he was enlarged on bail, he did not indulge in any other criminal activity. He has suffered agony of trial/appeal for about ten years. Considering these circumstances, the sentence order is modified and the substantive sentence of the appellant is reduced to rigorous imprisonment for one year. He shall, however, deposit `30,000/- to be paid as compensation within five days before the Trial Court. The compensation will be released to the victims wife (if available) and in her absence, to victims children in equal proportions.

8. The appeal stands disposed of in the above terms. The appellant shall surrender before the Trial Court on 20.05.2014 to serve the remaining period of sentence. The Registry shall transmit the Trial Court records forthwith along with the copy of this order. (S.P.GARG) JUDGE May 15, 2014 sa

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com